

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 311 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-2-9-2.1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. (a) As used in this
- 5 chapter, "protective order" means:
- 6 (1) a protective order issued under IC 34-26-5 (or, if the order
- 7 involved a family or household member, IC 34-26-2-12(1)(A),
- 8 IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C),
- 9 IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or
- 10 IC 34-4-5.1-5(a)(1)(C) before their repeal);
- 11 (2) an ex parte protective order issued under IC 34-26-5 (or, if the
- 12 order involved a family or household member, an emergency
- 13 protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2),
- 14 or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A),
- 15 IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their
- 16 repeal);
- 17 (3) a protective order issued under IC 31-15-4-1 (or
- 18 IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2),
- 19 or IC 31-16-4-2(a)(3) before their repeal);
- 20 (4) a dispositional decree containing a no contact order issued
- 21 under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or
- 22 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order
- 23 containing a no contact order issued under IC 31-32-13 (or
- 24 IC 31-6-7-14 before its repeal);

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);

(8) a protective order issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding; ~~or~~

(10) a workplace violence restraining order issued under IC 34-26-6; **or**

(11) a child protective order issued under IC 31-34-2.3.

(b) Whenever a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order, no contact order, or workplace violence restraining order. The Indiana court shall also place on the order the court's hours of operation and telephone number with area code.

SECTION 2. IC 5-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A depository is established in the office of each sheriff and law enforcement agency in Indiana for the purpose of collecting, maintaining, and retaining the following:

(1) Protective orders.

(2) No contact orders.

(3) Workplace violence restraining orders.

(4) Child protective orders.

SECTION 3. IC 5-2-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The clerk of a court that issues a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** shall provide a copy of the order to the following:

(1) Each party.

(2) A law enforcement agency of the municipality in which the protected person resides. If a person and an employer are:

(A) both protected by an order under this section; and

(B) domiciled in different municipalities;

the clerk shall send a copy of the order to the law enforcement agency of the municipality in which the person resides and the employer is located.

(3) If the protected person, including an employer, is not domiciled in a municipality, the sheriff of the county in which the protected person resides.

(b) The clerk of a court that issues a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** or the clerk of a court in which a petition is filed shall:

(1) maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration;

(2) provide a copy of the confidential form that accompanies the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** to the following:

(A) The sheriff of the county in which the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** was issued.

(B) The law enforcement agency of the municipality, if any, in which the protected person, including an employer, is domiciled.

(C) Any other sheriff or law enforcement agency designated in the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** that has jurisdiction over the area in which a protected person, including an employer, may be located or protected; and

(3) after receiving the return of service information, transmit all return of service information to each sheriff and law enforcement agency required under subdivision (2).

(c) A sheriff or law enforcement agency that receives a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** under subsection (a) and a confidential form under subsection (b) shall:

(1) maintain a copy of the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order**;

(B) the location of the person who is subject to the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order**, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order**;

(D) the manner in which the protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** is served;

(E) the name of the petitioner and any other protected parties;

- 1 (F) the name, Social Security number, date of birth, and
2 physical description of the person who is the subject of the
3 protective order, no contact order, ~~or~~ workplace violence
4 restraining order, **or child protective order**, if reasonably
5 ascertainable from the information received;
- 6 (G) the date the protective order, no contact order, ~~or~~
7 workplace violence restraining order, **or child protective**
8 **order** expires;
- 9 (H) a caution indicator stating whether a person who is the
10 subject of the protective order, no contact order, ~~or~~ workplace
11 violence restraining order, **or child protective order** is
12 believed to be armed and dangerous, if reasonably
13 ascertainable from the information received; and
- 14 (I) if furnished, a Brady record indicator stating whether a
15 person who is the subject of the protective order, no contact
16 order, ~~or~~ workplace violence restraining order, **or child**
17 **protective order** is prohibited from purchasing or possessing
18 a firearm or ammunition under federal law, if reasonably
19 ascertainable from the information received;
- 20 on the copy of the protective order, no contact order, ~~or~~ workplace
21 violence restraining order, **or child protective order** or the
22 confidential form; and
- 23 (3) establish a confidential file in which a confidential form that
24 contains information concerning a protected person is kept.
- 25 (d) A protective order, no contact order, ~~or~~ workplace violence
26 restraining order, **or child protective order** may be removed from the
27 depository established under this chapter only if the sheriff or law
28 enforcement agency that administers the depository receives:
 - 29 (1) a notice of termination on a form prescribed or approved by
30 the division of state court administration;
 - 31 (2) an order of the court; or
 - 32 (3) a notice of termination and an order of the court.
- 33 (e) If a protective order, no contact order, ~~or~~ workplace violence
34 restraining order, **or child protective order** in a depository established
35 under this chapter is terminated, the person who obtained the order
36 must file a notice of termination on a form prescribed or approved by
37 the division of state court administration with the clerk of the court.
38 The clerk of the court shall provide a copy of the notice of termination
39 of a protective order, no contact order, ~~or~~ workplace violence
40 restraining order, **or child protective order** to each of the depositories
41 to which the protective order, no contact order, ~~or~~ workplace violence
42 restraining order, **or child protective order** and a confidential form
43 were sent. The clerk of the court shall maintain the notice of
44 termination in the court's file.
- 45 (f) If a protective order, no contact order, ~~or~~ workplace violence
46 restraining order, **or child protective order** or form in a depository

established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall provide a copy of the notice of extension or modification of a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** in the court's file.

(g) The clerk of a court that issued an order terminating a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** that is an ex parte order shall provide a copy of the order to the following:

(1) Each party.

(2) The law enforcement agency provided with a copy of a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** under subsection (a)

SECTION 4. IC 5-2-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Any information:

(1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order**; or

(2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

(1) a court;

(2) a sheriff;

(3) another law enforcement agency;

(4) a prosecuting attorney; or

(5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 5. IC 5-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. A law enforcement agency that receives a copy of a protective order, no contact order, ~~or~~ workplace violence restraining order, **or child protective order** shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order."

Page 2, line 15, after "2.3" insert "**Child Protective Orders for**".

Page 2, line 18, after "(1)" insert "**there is probable cause to believe that**".

Page 2, line 24, delete "(a)".

- 1 Page 2, line 24, delete "restraining" and insert "**child protective**".
- 2 Page 2, line 26, after "chapter" insert "**without a hearing**".
- 3 Page 2, line 37, delete "restraining" and insert "**child protective**".
- 4 Page 2, delete lines 39 through 42.
- 5 Page 3, delete lines 1 through 10.
- 6 Page 3, line 11, delete "restraining" and insert "**child protective**".
- 7 Page 3, delete lines 16 through 18, begin a new paragraph and
- 8 insert:
- 9 "**Sec. 4. (a) A juvenile court shall hold a hearing on the**
- 10 **temporary child protective order issued under this chapter not**
- 11 **more than forty-eight (48) hours (excluding Saturdays, Sundays,**
- 12 **and any day on which a legal holiday is observed for state**
- 13 **employees as provided in IC 1-1-9) after the temporary child**
- 14 **protective order is issued.**
- 15 **(b) The department shall provide notice of the time, place, and**
- 16 **purpose of the hearing to the following:**
- 17 **(1) The child.**
- 18 **(2) The child's parent, guardian, or custodian if the person**
- 19 **can be located.**
- 20 **(3) Any adult with whom the child is residing.**
- 21 **(4) The alleged perpetrator of child abuse or neglect.**
- 22 **Sec. 5. (a) After notice and a hearing, the court may issue a child**
- 23 **protective order if the department's petition to remove the alleged**
- 24 **perpetrator states facts sufficient to satisfy the court that:**
- 25 **(1) the child is not in danger of child abuse or neglect from a**
- 26 **parent or other adult with whom the child will continue to**
- 27 **reside in the child's residence; and**
- 28 **(2) one (1) or more of the following exist:**
- 29 **(A) The presence of the alleged perpetrator of child abuse**
- 30 **or neglect in the child's residence constitutes a continuing**
- 31 **danger to the physical health or safety of the child.**
- 32 **(B) The child has been the victim of sexual abuse, and there**
- 33 **is a substantial risk that the child will be the victim of**
- 34 **sexual abuse in the future if the alleged perpetrator of**
- 35 **child abuse or neglect remains in the child's residence.**
- 36 **(b) If the court issues a child protective order under this section,**
- 37 **the court may grant other relief as provided under IC 34-26-5-9.**
- 38 **(c) A child protective order issued under this section is valid**
- 39 **until one (1) of the following occurs:**
- 40 **(1) The court determines the child is not a child in need of**
- 41 **services.**
- 42 **(2) The child is adjudicated a child in need of services and the**
- 43 **court enters a dispositional decree."**
- 44 Page 3, line 19, delete "5." and insert "6."
- 45 Page 3, line 19, delete "restraining" and insert "**child protective**".
- 46 Page 3, line 29, delete "6." and insert "7."
- 47 Page 3, line 30, delete "temporary restraining" and insert "**child**

- 1 **protective".**
2 Page 3, line 30, after "order" insert **"issued under section 2 or 5 of**
3 **this chapter".**
4 Page 3, line 34, delete "7." and insert **"8."**.
5 Page 3, line 35, delete "an" and insert **"a child protective".**
6 Page 3, line 36, after "under" insert **"section 2 or 5 of".**
7 Page 5, between lines 23 and 24, begin a new paragraph and insert:
8 "SECTION 10. IC 31-34-20-1, AS AMENDED BY P.L.146-2006,
9 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2007]: Sec. 1. Subject to section 1.5 of this chapter, if a child
11 is a child in need of services, the juvenile court may enter one (1) or
12 more of the following dispositional decrees:
13 (1) Order supervision of the child by the probation department or
14 the county office or the department.
15 (2) Order the child to receive outpatient treatment:
16 (A) at a social service agency or a psychological, a psychiatric,
17 a medical, or an educational facility; or
18 (B) from an individual practitioner.
19 (3) Remove the child from the child's home and place the child in
20 another home or shelter care facility. Placement under this
21 subdivision includes authorization to control and discipline the
22 child.
23 (4) Award wardship to a person or shelter care facility.
24 (5) Partially or completely emancipate the child under section 6
25 of this chapter.
26 (6) Order:
27 (A) the child; or
28 (B) the child's parent, guardian, or custodian;
29 to receive family services.
30 (7) Order a person who is a party to refrain from direct or indirect
31 contact with the child.
32 **(8) Order a perpetrator of child abuse or neglect to refrain**
33 **from returning to the child's residence.**
34 SECTION 11. IC 34-26-5-3 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The division of
36 state court administration shall:
37 (1) develop and adopt:
38 (A) a petition for an order for protection;
39 (B) an order for protection, including:
40 (i) orders issued under this chapter;
41 (ii) ex parte orders;
42 (iii) no contact orders under IC 31 and IC 35; ~~and~~
43 (iv) forms relating to workplace violence restraining orders
44 under IC 34-26-6; **and**
45 **(v) forms relating to a child protective order under**
46 **IC 31-34-2.3;**

- 1 (C) a confidential form;
- 2 (D) a notice of modification or extension for an order for
- 3 protection, a no contact order, ~~or~~ a workplace violence
- 4 restraining order, **or a child protective order**;
- 5 (E) a notice of termination for an order for protection, a no
- 6 contact order, ~~or~~ a workplace violence restraining order, **or a**
- 7 **child protective order**; and
- 8 (F) any other uniform statewide forms necessary to maintain
- 9 an accurate registry of orders; and
- 10 (2) provide the forms under subdivision (1) to the clerk of each
- 11 court authorized to issue the orders.
- 12 (b) In addition to any other required information, a petition for an
- 13 order for protection must contain a statement listing each civil or
- 14 criminal action involving:
 - 15 (1) either party; or
 - 16 (2) a child of either party.
- 17 (c) The following statements must be printed in boldface type or in
- 18 capital letters on an order for protection, a no contact order, ~~or~~ a
- 19 workplace violence restraining order, **or a child protective order**:

20 VIOLATION OF THIS ORDER IS PUNISHABLE BY

21 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

22 IF SO ORDERED BY THE COURT, THE RESPONDENT IS

23 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S

24 RESIDENCE **OR RESIDENCE OF ANY CHILD WHO IS**

25 **THE SUBJECT OF THE ORDER**, EVEN IF INVITED TO DO

26 SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO

27 EVENT IS THE ORDER FOR PROTECTION VOIDED.

28 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR

29 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT

30 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE

31 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT

32 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),

33 ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS

34 ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A

35 FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR

36 POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF

37 THE PROTECTED PERSON IS:

 - 38 (A) THE RESPONDENT'S CURRENT OR FORMER
 - 39 SPOUSE;
 - 40 (B) A CURRENT OR FORMER PERSON WITH WHOM
 - 41 THE RESPONDENT RESIDED WHILE IN AN INTIMATE
 - 42 RELATIONSHIP; OR
 - 43 (C) A PERSON WITH WHOM THE RESPONDENT HAS A
 - 44 CHILD.

45 INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT

46 THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES

1 UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

2 (d) The clerk of the circuit court, or a person or entity designated by
3 the clerk of the circuit court, shall provide to a person requesting an
4 order for protection:

- 5 (1) the forms adopted under subsection (a);
- 6 (2) all other forms required to petition for an order for protection,
7 including forms:
- 8 (A) necessary for service; and
- 9 (B) required under IC 31-17-3; and
- 10 (3) clerical assistance in reading or completing the forms and
11 filing the petition.

12 Clerical assistance provided by the clerk or court personnel under this
13 section does not constitute the practice of law. The clerk of the circuit
14 court may enter into a contract with a person or another entity to
15 provide this assistance. A person, other than a person or other entity
16 with whom the clerk has entered into a contract to provide assistance,
17 who in good faith performs the duties the person is required to perform
18 under this subsection is not liable for civil damages that might
19 otherwise be imposed on the person as a result of the performance of
20 those duties unless the person commits an act or omission that amounts
21 to gross negligence or willful and wanton misconduct.

22 (e) A petition for an order for protection must be:

- 23 (1) verified or under oath under Trial Rule 11; and
- 24 (2) issued on the forms adopted under subsection (a).

25 (f) If an order for protection is issued under this chapter, the clerk
26 shall comply with IC 5-2-9.

27 SECTION 12. IC 34-26-5-18 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. The following
29 orders are required to be entered into the Indiana data and
30 communication system (IDACS) by a county sheriff or local law
31 enforcement agency:

- 32 (1) A no contact order issued under IC 31-32-13 in a juvenile
33 case.
- 34 (2) A no contact order issued under IC 31-34-20 in a child in need
35 of services (CHINS) case.
- 36 (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- 37 (4) A no contact order issued under IC 31-37-19 in a delinquency
38 case.
- 39 (5) A no contact order issued under IC 31-37-25 in a delinquency
40 case.
- 41 (6) A no contact order issued under IC 33-39-1-8 in a criminal
42 case.
- 43 (7) An order for protection issued under this chapter.
- 44 (8) A workplace violence restraining order issued under
45 IC 34-26-6.
- 46 (9) A no contact order issued under IC 35-33-8-3.2 in a criminal

- 1 case.
- 2 (10) A no contact order issued under IC 35-38-2-2.3 in a criminal
- 3 case.
- 4 **(11) A child protective order issued under IC 31-34-2.3."**
- 5 Renumber all SECTIONS consecutively.
(Reference is to ESB 311 as printed March 23, 2007.)

Representative Orentlicher